

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



DEMETRIUS D. WALKER, #1421830,

Petitioner,

v.

Civil NO. 2:12cv424

HAROLD W. CLARKE,
Director of the Virginia Department of Corrections,

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254. The petition alleges violation of Petitioner's constitutional rights pertaining to his convictions for abduction with intent to defile, forcible sodomy, object sexual penetration, armed statutory burglary, robbery, and multiple convictions for use of a firearm in commission of a felony. Petitioner was convicted on March 26, 2010, in the Circuit Court of the City of Norfolk, and was sentenced to serve eighty-eight years (with fifteen years suspended) in the Virginia penal system.

The petition was referred to a United States Magistrate Judge for a Report and Recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. The Magistrate Judge's Report and Recommendation, filed July 26, 2013, recommends dismissal of the petition with prejudice. The Court has received no objections to the Report and Recommendation and the time for filing objections has expired.

The Court accepts the findings and recommendations set forth in the Report and Recommendation filed July 26, 2013, and it is ORDERED that Respondent's Motion to Dismiss is GRANTED, and that the petition is DENIED and DISMISSED with prejudice. It is further ORDERED that judgment is entered in favor of Respondent.

To the extent that the petition is based on Grounds 1, 2, 3, and 5 the petition is DISMISSED because the grounds have been procedurally defaulted.

To the extent that the petition is based on Ground 4, the petition is DISMISSED on the merits.

Petitioner may appeal from the Judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty days from the date of entry of such Judgment.

Petitioner has failed to demonstrate a substantial showing of the denial of a constitutional right. Therefore, the Court declines to issue a certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. *See Miller-El v. Cockrell*, 537 U.S. 322, 335-36 (2003).

The Clerk shall mail a copy of this Final Order to Petitioner and to counsel of record for Respondent.



Arenda L. Wright Allen
United States District Judge

Norfolk, Virginia
August 15, 2013